

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Updating the Intercarrier Compensation)	WC Docket No. 18-155
Regime to Eliminate Access Arbitrage)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”) hereby respectfully submits its comments on the above-captioned Notice of Proposed Rulemaking (“NPRM”) released on June 5, 2018. The Commission’s concern over on-going “wasteful arbitrage” and evolving arbitrage “schemes”¹ is well-founded, and Sprint agrees that additional measures are needed to address this serious problem. Sprint vigorously endorses the proposal to move to a system of full bill-and-keep as the most efficient and effective way of addressing, and hopefully resolving, wasteful access arbitrage.

1. Introduction and Summary

Over the past decade, the Commission has repeatedly considered proposals to help reduce uneconomic access arbitrage. While previously adopted measures have addressed these schemes to some degree, none has eliminated traffic pumping, and pumpers have proven adept at devising new forms of arbitrage to skirt the rules. As long as there is any financial incentive to game the access charge system –and even a tiny fraction of a cent, multiplied by tens or hundreds of millions of minutes, can add up to a significant windfall -- pumpers will continue to devise new schemes to evade or

¹ NPRM, para. 1.

manipulate the rules. It is now time to eliminate the financial incentive to engage in traffic pumping by moving to full bill-and-keep. The other proposal raised in the instant NPRM -- requiring an access stimulating LEC to accept direct connections from the IXC or an intermediate access provider of the IXC's choice (an access stimulating LEC that declines this option would be financially responsible for calls delivered to its network) -- will not be as effective as a system of bill-and-keep at addressing traffic pumping schemes; will not eliminate costly transport expenses associated with interconnection at a distant LEC end office; and may be of only limited feasibility in rural areas where there are no competitive alternatives to the LEC's preferred intermediate access partner.

2. Full Bill-and-Keep Is the Most Effective and Efficient Approach to Eliminating Access Arbitrage Schemes.

The economic benefits of a bill-and-keep regime are undisputed; as the Commission has repeatedly found, bill-and-keep for all intercarrier compensation traffic "will promote the transition to IP networks, provide a more predictable path for the industry and investors, and anchor the reform process that will ultimately free consumers from shouldering the hidden multi-billion dollar subsidies" embedded in the old price cap/rate of return regimes.² Bill-and-keep ensures that "consumers pay only for services that they choose and receive," and "imposes fewer regulatory burdens and reduces arbitrage and competitive distortions."³ In the instant NPRM, the Commission has again correctly stated that moving terminating tandem switching, common transport, and tandem-switched transport rate elements for traffic pumpers to bill-and-keep

... would be consistent with our overarching goals of discouraging arbitrage, in particular access stimulation, and ultimately transitioning all traffic to bill-and-keep. It would also be consistent with the Commission's finding in the

² See, e.g., *Connect America Fund, et al.*, 26 FCC Rcd 17663, para. 736 (2011).

³ *Id.*, para. 738.

USF/ICC Transformation Order that with respect to terminating traffic, the LEC's end user is the cost causer and therefore the LEC should look first to its subscribers to recover the costs of its network.⁴

Given the economic, technological, competitive and regulatory benefits of bill-and-keep, it is clear that the optimal approach is to move all traffic⁵ to a system of full bill-and-keep, and Sprint urges the Commission to implement this approach expeditiously. A partial transition such as has been proposed in the instant NPRM (only terminating tandem switching, common transport, and tandem-switched transport would be moved to bill-and-keep and only for traffic destined to an access stimulating LEC), while undoubtedly an improvement over the status quo, is a second-best alternative that should be adopted only if the record clearly demonstrates that implementation of full and immediate bill-and-keep for all access rate elements and all traffic is not yet feasible.

A partial transition to bill-and-keep leaves the door open for on-going abuses, particularly involving the manipulation of rate elements such as terminating dedicated transport or originating access rates that are not yet subject to bill-and-keep. Sprint does not underestimate the ability of traffic pumpers to devise new schemes to manipulate the intercarrier compensation system, and it is entirely possible that traffic pumpers could expand their schemes to implicate other regulations (*e.g.*, complaining or threatening to complain about purported rural call completion failures unless the interexchange or CMRS carrier agrees to route its traffic via an intermediate carrier with which the traffic pumping terminating LEC has a revenue sharing agreement).

⁴ NPRM, para. 24, footnote omitted.

⁵ A move to full bill-and-keep would encourage efficient IP interconnection arrangements by all LECs, including those that do not engage in traffic pumping, and would help to eliminate the competitive disparity relating to the collection of access charges by LECs versus wireless carriers.

The Commission has also solicited comments on a proposal to require access stimulating LECs to accept direct connections either from the IXC or an intermediate access provider of the IXC's choice; a LEC that does not accept direct connections would bear all financial responsibility for applicable intermediate access provider terminating charges normally assessed to an IXC.⁶ Here again, this proposal might be an improvement over the status quo in certain limited circumstances. However, it does not eliminate the LEC's incentive or ability to designate a distant point of interconnection in order to maximize distance-sensitive transport charges paid by the interexchange or CMRS carrier. Because the access-stimulating LEC apparently would continue to determine where to provide the point of interconnection, interexchange and CMRS carriers would still incur the distance sensitive transport cost of bringing their traffic to a distant POI.

Moreover, even if IXCs have the theoretical option of selecting an intermediate access provider, competitive alternatives may be extremely limited or even non-existent in many of the rural locations where traffic pumping has been pervasive. If there is no competitive alternative to the transport facilities provider with which the terminating LEC has a financial interest, a policy forbidding the terminating LEC from designating the intermediate carrier would have little practical effect.

3. Decisions About Direct Interconnection Or Use of Intermediate Carriers Should Be Made by the Originating Interexchange or CMRS Carrier

The Commission has correctly noted that "today's access arbitrage schemes are often enabled by the use of intermediate access providers selected by the terminating

⁶ NPRM, para. 10.

LECs.”⁷ Sprint shares the Commission’s concern that forcing interexchange or CMRS carriers to route their traffic through a centralized equal access (CEA) provider, or any other intermediate carrier, presents an opportunity for access arbitrage abuse. Decisions about whether to interconnect directly or indirectly with a terminating LEC, or which intermediate carrier to use in the case of indirect terminations, should be made by the originating interexchange or CMRS carrier. Mandating the routing of traffic through a CEA or any other intermediate carrier, whether by regulatory requirement or by demand on the part of a terminating LEC (particularly as part of a scheme to increase its intercarrier compensation revenues), is inefficient and anti-competitive, and any such requirement should be eliminated or overturned.

To be clear, Sprint is not advocating either mandatory use of intermediate carriers or mandatory direct interconnection. There are many legitimate reasons to route traffic through an intermediate access provider – for example, because direct connection with a terminating LEC is not economically efficient (*e.g.*, because traffic volumes do not justify the cost of a direct connection); for redundancy; to handle overflow traffic; or to convert IP traffic to TDM where required by the terminating carrier. There are also legitimate reasons to route traffic to a terminating LEC via a direct, dedicated connection – for example, it may be less expensive, or might help ensure a better quality of service. The decision to use, or not use, an intermediate carrier is a network management determination which should be left to the discretion of the originating interexchange or CMRS carrier.

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⁷ NPRM, para. 6, footnote omitted.

Sprint shares the Commission's legitimate concerns about on-going and evolving access arbitrage schemes, and urges the Commission to adopt a full and immediate bill-and-keep regime. Full bill-and-keep is economically rational and will encourage carriers to establish efficient, cost-minimizing network interconnection and traffic exchange arrangements that clearly promote the public interest.

Respectfully submitted,

SPRINT CORPORATION

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